

State of Wisconsin



1995 Senate Bill 484

Date of enactment: **June 6, 1996**
Date of publication*: **June 20, 1996**

1995 WISCONSIN ACT 415

AN ACT to amend 551.23 (13), 551.23 (14), 551.32 (1) (c) 2., 551.34 (1) (m), 551.34 (7) and 553.51 (4); and to repeal and recreate 551.32 (1) (c) 2., 551.34 (1) (m) and 553.51 (4) of the statutes; relating to: exempting share exchanges from registration under the Wisconsin uniform securities law, exempting share splits and share dividends of business trusts from registration under the Wisconsin uniform securities law, the effective date of licenses after requests for information by the commissioner of securities, notice of revocations or denials of licenses by the commissioner of securities, notice to a franchise purchaser of registration and anti-fraud violations and misrepresentations to representatives of the commissioner of securities (suggested as remedial legislation by the office of the commissioner of securities).

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the office of the commissioner of securities and introduced by the law revision committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the law revision committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

SECTION 1. 551.23 (13) of the statutes is amended to read:

551.23 (13) Any transaction incident to a class vote by stockholders, pursuant to the articles of incorporation or the applicable corporation statute, on a merger, consolidation, share exchange, reclassification of securities, or sale of corporate assets in consideration of the issuance of securities of another corporation; or any transaction incident to a judicially approved reorganization in which a security is issued in exchange for one or more outstanding securities, claims or property interests, or partly in such exchange and partly for cash.

NOTE: This SECTION adds a "share exchange" to the list of transactions, mergers and consolidations of corporations that qualify for exemption from registration under the Wisconsin uniform securities law. 1989 Wisconsin Act 303 redefined ch. 180, relating to business corporations, effective January 1, 1991. Section 180.1102, as created by Act 303, included "share exchanges" in subch. XI, related to mergers of corporations. The share exchange must be pursuant to a class vote by shareholders.

SECTION 2. 551.23 (14) of the statutes is amended to read:

551.23 (14) Any stock split and any stock dividend by a corporation, and any share split or share dividend by a business trust, whether the corporation or business trust distributing the dividend is the issuer of the stock or not, if nothing of value is given by stockholders for the dividend other than the surrender of a right to a cash or property dividend when each stockholder or shareholder may elect to take the dividend in cash or property or in stock or shares.

NOTE: A share of a beneficial interest in a business trust is defined as a "security" by s. 551.02 (13) (a). This SECTION includes "share splits" and "share dividends" by business

* Section 991.11, WISCONSIN STATUTES 1993-94: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

trusts in an exemption from registration under the Wisconsin uniform securities law. Currently, stock splits and stock dividends of corporations are exempt from registration. The amendment will extend this exemption to comparable activities by business trusts.

SECTION 3. 551.32 (1) (c) 2. of the statutes is amended to read:

551.32 (1) (c) 2. If the commissioner makes a written request for additional information relevant to the application within 30 days after the application is filed, the licensing is not effective until 30 days after the information is filed in response to that written request or in response to any subsequent written request for information by the commissioner within 30 days after a response to a written request is filed;

SECTION 4. 551.32 (1) (c) 2. of the statutes, as affected by 1995 Wisconsin Acts 27 and (this act), is repealed and recreated to read:

551.32 (1) (c) 2. If the division makes a written request for additional information relevant to the application within 30 days after the application is filed, the licensing is not effective until 30 days after the information is filed in response to that written request or in response to any subsequent written request for information by the division within 30 days after a response to a written request is filed;

NOTE: Current law provides that the commissioner of securities may request additional information relevant to an application for a license and the license is effective 30 days after that response is received. This SECTION and the previous SECTION provide that if the commissioner makes another request for additional information, the license will not be effective until 30 days after that information is received.

SECTION 5. 551.34 (1) (m) of the statutes is amended to read:

551.34 (1) (m) Has made any material misrepresentation to or withheld or concealed any material fact from the commissioner or any of his or her representatives, or has refused to furnish information reasonably requested by the commissioner or any of his or her representatives; or

SECTION 6. 551.34 (1) (m) of the statutes, as affected by 1995 Wisconsin Acts 27 and (this act), is repealed and recreated to read:

551.34 (1) (m) Has made any material misrepresentation to or withheld or concealed any material fact from the division, or has refused to furnish information reasonably requested by the division; or

NOTE: This SECTION and the previous SECTION add to the grounds for denial, suspension or revocation of a license the refusal to furnish information that is reasonably requested by representatives of the commissioner. The provision currently

punishes a material misrepresentation to, and withholding or concealing any material fact from, the commissioner or his or her representatives and refusing to furnish information to the commissioner. The change will make the provision internally consistent.

SECTION 7. 551.34 (7) of the statutes is amended to read:

551.34 (7) No order may be entered under this section except under sub. (4) or (5) without appropriate prior notice to the applicant or licensee, as well as the employer or prospective employer if the applicant or licensee is an agent. In cases of denial orders written findings of fact and conclusions of law are required only if requested by the applicant.

NOTE: Currently, s. 551.34 (4) and (5) authorize the commissioner of securities to summarily issue an order revoking a license or denying an application without providing prior notice to the licensee or applicant. However, current s. 551.34 (7) provides that no order may be entered except under s. 551.34 (4), without prior notice. The change made by this SECTION adds a cross-reference to s. 551.34 (5) to this provision to reflect the existence of the 2nd exception.

SECTION 8. 553.51 (4) of the statutes is amended to read:

553.51 (4) No action may be maintained against any person to enforce any liability under this section unless brought before the expiration of 3 years after the act or transaction constituting the violation upon which the liability is based or 90 days after delivery to the franchisee of a written notice from or on behalf of that person disclosing any violation of s. 553.21 or 553.41, which notice shall be approved as to form by the commissioner, whichever first expires.

SECTION 9. 553.51 (4) of the statutes, as affected by 1995 Wisconsin Acts 27 and (this act), is repealed and recreated to read:

553.51 (4) No action may be maintained against any person to enforce any liability under this section unless brought before the expiration of 3 years after the act or transaction constituting the violation upon which the liability is based or 90 days after delivery to the franchisee of a written notice from or on behalf of that person disclosing any violation of s. 553.21 or 553.41, which notice shall be approved as to form by the division, whichever first expires.

SECTION 10. Effective dates. This act takes effect on the day after publication, except as follows:

(1) The repeal and recreation of sections 551.32 (1) (c) 2., 551.34 (1) (m) and 553.51 (4) of the statutes takes effect on July 1, 1996, or on the day after publication, whichever is later.